

FILED  
Clerk  
District Court

DEC 1 2006

For The Northern Mariana Islands  
By \_\_\_\_\_  
(Deputy Clerk)

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN MARIANA ISLANDS

ANTONIO S. CAMACHO,

Plaintiffs

v.

COMMONWEALTH OF THE  
NORTHERN MARIANA ISLANDS,  
et al.,

Defendants

Civil Action No. 05-0043

ORDER GRANTING  
PLAINTIFF'S MOTION  
IN LIMINE

THIS MATTER came before the court on Friday, December 1, 2006, for expedited hearing of plaintiff's motion in limine. Plaintiff appeared by and through his attorney, Michael W. Dotts; defendants appeared by and through their attorney, Commonwealth Deputy Attorney General Gregory Baka.

1 THE COURT, having considered the arguments of counsel, hereby grants  
2 plaintiff's motion in limine, for the following reasons.

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4 The complaint in this matter was filed December 5, 2005. The complaint  
5 seeks relief for the taking of private property without just compensation. The jury  
6 trial is set to begin next Monday, December 4, 2006.

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8 On or about November 27, 2006, plaintiffs learned that defendants intended  
9 to call as a witness the administrative hearings officer who had presided at a hearing  
10 held by the now-defunct Marianas Public Land Authority (MPLA), and to use  
11 portions of that proceeding during this trial. Plaintiff moved for an order  
12 preventing defendants from introducing at trial any evidence concerning the  
13 administrative decision, to prohibit the administrative hearings officer from  
14 testifying, and to forbid the use at trial of any recorded or written transcript of the  
15 administrative hearing. Due to the short time involved, defendants were not able to  
16 file a written response to plaintiff's motion, but did argue against it at the hearing.

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19 This dispute over compensation for land taken by the Commonwealth has  
20 not followed a normal trajectory. After the administrative hearings officer issued his  
21 opinion that favored defendants, both parties appealed to the Marianas Public Land  
22 Authority, as was then the prescribed procedure. After fourteen months had passed  
23 without a decision from MPLA, MPLA was abolished and plaintiff, along with  
24 others no doubt, could no longer "exhaust his administrative remedies."  
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1 The court concludes that because the administrative decision was appealed  
2 but no appellate decision was ever rendered, it never became a “final” decision  
3 entitled to res judicata or estoppel effect. Also, plaintiff’s failure to exhaust his  
4 administrative remedies was not due to any fault on his part; he tried to do so but  
5 had no vehicle for doing so in a timely fashion.  
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8 To the extent defendants seek to argue any theory of estoppel or res judicata,  
9 those defenses were never raised in their answers, as required by Fed.R.Civ.P. 8(c).

10 The administrative hearings officer was not identified as a witness until  
11 defendants’ witness list was filed on November 27, 2006, and the information  
12 sought to be used was never disclosed during the discovery time period, which  
13 expired quite some time ago. Also, the court finds it very difficult to imagine a  
14 situation in which a hearings officer should be allowed to testify about anything  
15 which transpired before him while he was acting in his functional role as a judge.  
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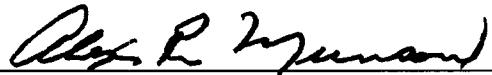
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18 To the extent that defendants raised an eleventh-hour challenge to the court’s  
19 jurisdiction, the court notes that defendants conceded jurisdiction in their pleadings.  
20 Also, while it is certainly true that the issue of this court’s jurisdiction can be raised  
21 at any time, the court finds that plaintiff’s claim properly invokes the court’s federal  
22 question jurisdiction.  
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25 Finally, the court would allow a properly authenticated transcript of the  
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1 administrative hearing to be used for impeachment purposes as to prior inconsistent  
2 statements, if it were first shown that the statements were made under oath.

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4 For the foregoing reasons, plaintiff's motion in limine is granted.

5 DATED this 1st day of December, 2006.  
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11 ALEX R. MUNSON

12 Judge  
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